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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,937	02/22/2002	Timothy Francis	31009-9072-01	6528

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EXAMINER

SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 11/13/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

080937

Applicant(s)

Francis

Examiner

Silbermann

Group Art Unit

3611

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 8-27-03.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) 3, 6, 13-17 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 2, 5, 7-12 is/are rejected.
- ☒ Claim(s) 4 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group III in Paper No. 8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 3, 6 and 13-17 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1, 2 and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotutsca, US #4,901,456 in view of Thompson, UK application 2,074,770.
5. Cotutsca teaches a display device including object 16 (Figure 1) having first and second ends, tether (linear filament) 23 connected to the second end, first magnet 30, and second magnet 26 (Figures 2 and 3).
6. Cotutsca does not teach rotating the display with a motor, however, this is old and well known in the art. Thompson teaches a rotating display having filament 15

attached to one end of object 24 and the other end to electric motor 14 (Figure 1). It would have been obvious to utilize such a motor in the device of Cotutsca so as to create a more interesting display, as discussed in Cotutsca, page 1 lines 6-15.

7. Cotutsca and Thompson do not teach using a spring to attach the object to the motor, however, this is considered to be an equivalent alternative. It would have been obvious to a person having ordinary skill in the art to utilize another such connection so as to provide a different type of motion for the display object.

8. Cotutsca and Thompson also do not specify one magnet as being stronger than the other, however, it would have been obvious to one of ordinary skill to utilize magnets of sufficient strength to support the object in the proper position.

9. Cotutsca and Thompson do not teach using a transformer or battery power, however, these are well known electrical components. It would have been obvious to one of ordinary skill to utilize a transformer if only AC current were available. It also would have been obvious to utilize a battery if no other power source were available or if the device was used in a remote location.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cotutsca and Thompson as applied to claim 1 above, and further in view of Gill et al. US #6,279,254.

11. Cotutsca and Thompson do not teach using a fan, however, fans are old and well known in the art of display devices. Gill et al. teach an advertising device including fan 3. It would have been obvious to one of ordinary skill to utilize a fan in the device of

Cotutsca (as modified by Thompson) so as to create a more interesting, noticeable display.

***Allowable Subject Matter***

12. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is an examiner's statement of reasons for allowance: a rotating display device, as specifically described in claim 1 and further having the first magnet not intersecting the axis of rotation is not shown or suggested by the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

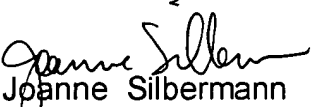
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patents 3874102, 2811356, 3955315 and 4753623 are cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 703-308-2091. The examiner can normally be reached on Tu-Th 5:30-2:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Joanne Silberman  
Primary Examiner  
Art Unit 3611

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